

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TARA KELLY,

Defendant.

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CASE NO. 8:07CR225

ORDER

This matter is before the Court on the Defendant's motions for documents (Filing No. 49) and for relief from the requirement of filing a certificate of service for her motion filed under 28 U.S.C. § 2255 or, alternatively, for an extension of time to comply with the clerk's deficiency notice (Filing No. 53).

Documents

The Defendant seeks FBI reports and related documents concerning her proffer under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. Specifically, she asks for an order directing the FBI to comply with her request. Section 552 requires "[e]ach agency" to make available to the public certain records. The Defendant must request the records from the FBI. 5 U.S.C. § 552. Moreover, the Defendant states that she desires the records to "perfect" her § 2255 motion, which has been filed. Therefore, the request appears to be moot. The motion for documents will be denied.

Certificate of Service

The Defendant states that she has been in transit by the Bureau of Prisons and, when the motion was filed, did not have a copy of her § 2255 motion. Court records show that the government's attorney received electronic notice of the § 2255 motion. (Filing No.

52.) In the interest of justice, the Court finds that in this instance the requirement of providing a certificate of service should be waived.

IT IS ORDERED:

1. The Defendant's motion for documents (Filing No. 49) is denied;
2. The Defendant's motion for relief (Filing No. 53) is granted; and
3. The Defendant is relieved of the requirement of filing a certificate of service only with respect to her previously filed § 2255 motion.

DATED this 26th day of February, 2009.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge